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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/072,797

02/07/2002

Jeffrey Rodman

199-0093US

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29855

7590

01/29/2009

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,
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20333 SH 249

SUITE 600

HOUSTON, TX 77070

EXAMINER

PYZOCHA, MICHAEL J

ART UNIT

PAPER NUMBER

2437

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/072,797	Applicant(s) RODMAN ET AL.	
	Examiner MICHAEL PYZOSHA	Art Unit 2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/3/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 21-40 are pending.
2. Amendment filed 07/21/2008 has been received and considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21, 24, 25, 28, 30, 31 and 36-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjorndahl (US 6396612) in view of Schneier (Applied Cryptography).

As per claims 21, 30, 31, 37 and 40, Bjorndahl discloses a method and system for data transfer in a wireless networked communication system, the method comprising the acts of: wirelessly transmitting a an encryption key from a first device to a second device of the communication system remote from the first device (see column 5 lines 54-61), wherein the first device and second device are confined within a room and wherein the encryption key signal does not penetrate walls of the room (see column 5 lines 54-61 and column 4 lines 21-25 where it is clear that IR signals do not penetrate walls); using the encryption key to encrypt and decrypt conference data transmissions between the first and second devices, wherein the conference data transmissions are

capable of penetrating the walls of the room (see column 5 line 53 through column 6 line 14).

Cotton fails to disclose the key generation and exchanging steps.

However, Schneier teaches generating a first encryption key within a first device of a communication system; encoding the encryption key to form an encoded encryption key; transmitting the encoded encryption key to a second device (see page 33 step (2)); decoding the encoded encryption key at the second device to extract the encryption key (see page 33 step (3)); and using the encryption key to encrypt and decrypt data for subsequent transmissions between the first and second devices (see page 33 step (4)).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the key generation and exchanging to exchange the key of the Bjorndahl system.

Motivation to do so would have been to allow for secure communications (see Schneier page 33).

As per claim 24, the modified Bjorndahl and Schneier system discloses the use of infrared communications (see Bjorndahl column 5 line 53 through column 6 line 14).

As per claims 25 and 36, the modified Bjorndahl and Schneier system discloses the use of memory to store the encryption key (see Bjorndahl column 5 line 53 through column 6 line 14).

As per claims 28, 38 and 39 the modified Bjorndahl and Schneier system discloses the use of RF signals (see Bjorndahl column 5 line 53 through column 6 line 14).

5. Claims 22, 23 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Bjorndahl and Schneier system as applied to claims 21, 30 and 31 above, and further in view of Stein, III et al. (US 6297892).

As per claims 22, 23 and 32-35, the modified Bjorndahl and Schneier system fails to explicitly disclose that the acoustic signal comprises DTMP tones.

However, Stein, III et al. teaches such an acoustic signal (see column 3 lines 45-53).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for the acoustic signals of the modified Bjorndahl and Schneier system to be DTMF tones.

Motivation to do so would have been to allow for recognition by a phone or fax (see Stein, III et al. column 3 lines 45-53).

6. Claims 26, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Bjorndahl and Schneier system as applied to claim 21 above, and further in view of Doberstein et al. (US 5809148).

As per claims 26, 27, and 29, the modified Bjorndahl and Schneier system fails to explicitly disclose determining when a request for retransmission, because of an error occurred in connection with the reception or decoding of the encryption key, is needed based on performing error detection.

However, Doberstein et al. teaches determining when a request for retransmission, because of an error occurred in connection with the reception of a message, is needed based on performing error detection (see column 3 lines 3-19).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to determining when a request for retransmission, because of an error occurred in connection with the reception of the encryption key in the modified Bjorndahl and Schneier system, is needed based on performing error detection.

Motivation to do so would have been because doing so allows the system to make a request for retransmission of data so that the encryption key can still be built even if data is initially not received properly (see Doberstein et al. column 3 lines 3-19).

Response to Arguments

7. Applicant's arguments, see remarks pages 6-9 of the response, filed 12/19/2008, with respect to the rejection(s) of claim(s) 21-40 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection has been made as put forth above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL PYZOCHA whose telephone number is

(571)272-3875. The examiner can normally be reached on Monday-Thursday, 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Pyzocha/
Examiner, Art Unit 2137